

SENATE BILL REPORT

SB 5472

As Reported By Senate Committee On:
Energy, Telecommunications & Utilities, February 23, 1995

Title: An act relating to satisfaction of utility liens at the time of sale.

Brief Description: Providing for utility liens.

Sponsors: Senators Wojahn, Winsley, Haugen, Wood, Gaspard, Sheldon and Sutherland.

Brief History:

Committee Activity: Energy, Telecommunications & Utilities: 2/2/95, 2/9/95, 2/23/95 [DPS].

SENATE COMMITTEE ON ENERGY, TELECOMMUNICATIONS & UTILITIES

Majority Report: That Substitute Senate Bill No. 5472 be substituted therefor, and the substitute bill do pass.

Signed by Senators Sutherland, Chair; Loveland, Vice Chair; Finkbeiner, Hochstatter and Owen.

Staff: Diane Smith (786-7410)

Background: Municipal utilities are authorized to place liens against the premises to which their utility services are provided, for charges due but not paid. Different municipal utilities have different lien provisions. The differences involve the method of enforcement of the lien, the length of time for which unpaid charges may be made subject to lien, the priority status of the lien and how the lien is perfected. Examples of these liens are those for county sewerage and water systems, storm water, city and town garbage, water works, electric light or power and sewers.

Summary of Substitute Bill: Upon a properly presented written request from an escrow agent or owner of a property, utilities operated by cities, towns or counties must provide an estimated or actual final billing for unpaid utility charges against any real property that is to be sold.

Failure of the utility to provide this billing after a proper request causes the utility to forfeit any right it may have to collect outstanding utility charges from the purchaser.

All municipal utility charges are junior liens for which no filing is required on the real property to which the services are furnished. The seller of the fee interest in the property has the responsibility to satisfy this lien upon closing of a sale of the property. The escrow agent handling the sale must grant the request of a seller that the escrow agent administer the disbursement of closing funds to satisfy the lien. Escrow agents must also request the final billing from all affected utilities.

Substitute Bill Compared to Original Bill: The substitute bill clarifies administrative details concerning the estimated final billing. The utility is given 14 more days, for a total of 21 days, to provide a refund to the seller if the estimated final billing is too high. Any amounts subject to the lien authority of cities and towns owning their own water or electrical companies, which is a lien limited to charges four months past due, is established and recovered solely according to the provisions pertaining to that four-month lien.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect on June 1, 1996.

Testimony For: This bill solves a problem for both the municipal utility and its customers in a way that is fair to both of them. This problem concerns the innocent purchaser who buys property subject to an unrecorded municipal utility lien.

Testimony Against: A seller is responsible for utility charges which were incurred by his or her tenant.

Testified: George Walk, Pierce County (pro); Kim Gerhart, Tacoma Public Utilities (pro); Leonard Sanderson, Milton (pro); Brian Shay, Aberdeen (pro); Bennie Barnes, Janice Green, Don Wakeman, City of Seattle (pro); Lyle Jacobsen, Washington Mortgage Lenders, Washington Savings League (pro).